

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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HERICK LOUIS

Plaintiff,

v.

GREAT AMERICAN LIFE INSURANCE  
COMPANY,

Defendant.

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CIVIL ACTION NO.  
04-CV-10818GAO

**DEFENDANT’S MOTION TO DISMISS OR  
FOR FAILURE TO COMPLY WITH COURT’S ORDER**

The Defendant, Great American Life Insurance Company seeks the dismissal of the Plaintiff’s Complaint for failure to file a more definite statement within twenty-one (21) days of the Court’s Order dated July 30, 2004 as required. (See Order dated July 30, 2004, Docket Entry/Paper No. 7).

On or about May 19, 2004, this Defendant filed a Motion to Dismiss or for More Definite Statement pursuant to Fed. R. Civ. P. 8 and Fed. R. Civ. P. 12(e) on the grounds that the Plaintiff’s Complaint was so vague and ambiguous that it did not comply with Rule 8 and should be dismissed, or alternatively, Plaintiff should be required to file a more definite statement. (See Motion dated May 19, 2004, Docket/Paper No. 4 and Memorandum in Support, Docket/Paper No. 5). The Plaintiff did not oppose the Motion.

Although the Court found that “the plaintiff’s complaint arguably fails to satisfy even the liberal pleading standards of the Federal Rules,” the Court denied the Motion to dismiss, and instead required the plaintiff “to file a more definite statement so that the defendant is able to

frame a responsive pleading.” The Court’s Order specifically directed the Plaintiff to file the more definite statement within twenty-one (21) days after notice of entry of the Order. The Order dated July 30, 2004 was entered on the docket on August 2, 2004 and notice of the docket entry was served on the parties on the same date.

As of August 25, 2004, the Defendant has not been served with a more definite statement and there has been no entry on the docket indicating that the Plaintiff filed the more definite statement as Ordered by this Court.

Therefore, the Defendant respectfully requests that this Court dismiss the Plaintiff’s Complaint for failure to comply with the Court Order dated July 30, 2004.

Respectfully submitted,  
GREAT AMERICAN LIFE INSURANCE  
COMPANY  
By its attorneys,

\_\_\_\_\_/s/Windy L. Rosebush\_\_\_\_\_  
Donald E. Frechette, BBO #547293  
Windy L. Rosebush, BBO #636962  
EDWARDS & ANGELL, LLP  
101 Federal Street  
Boston, MA 02110  
Telephone: (617) 439-4444

Date: August 25, 2004

**CERTIFICATE OF SERVICE**

I, Windy L. Rosebush, hereby certify that on August 25, 2004, I caused a copy of the foregoing document to be served upon Herick Louis, *pro se*, 400 Savin Hill Avenue, #21, Dorchester, MA 02125 via certified mail, return receipt requested.

\_\_\_\_\_/s/Windy L. Rosebush\_\_\_\_\_